

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

OLYMPIC FOREST COALITION, a  
Washington non-profit corporation,

Plaintiff,

v.

COAST SEAFOODS COMPANY, a  
Washington corporation,

Defendant.

Civil Action No. 3:16-cv-05068-RBL

AMENDED ORDER GRANTING  
DEFENDANT'S MOTION TO CERTIFY  
ORDER FOR INTERLOCUTORY APPEAL  
AND MOTION TO STAY

THIS MATTER having come before the Court on Defendant's Motion to Certify Order for Interlocutory Appeal and Motion to Stay, and the Court having considered the records and files herein, the Court expressly finds as follows:

1. The Court's order denying defendant Coast Seafoods Company's ("Coast") motion to dismiss, entered June 3, 2016 (Dkt. 21) (the "Order"), involves a controlling question of law as to which there is a substantial ground for difference of opinion.

2. The question of law presented in the Order is whether the Clean Water Act, 33 U.S.C. §§ 1251-1376, requires an aquatic animal production facility that is not a concentrated facility under 40 C.F.R. § 122.24, but that discharges effluent from a discrete conveyance, to obtain a National Pollutant Discharge Elimination System ("NPDES") permit.

This question turns on the applicability and interpretation of *Ass'n to Protect Hammersley, Eld. & Totten Inlets v. Taylor Res., Inc.*, 299 F.3d 1007 (9th Cir. 2002), *League of Wilderness Defenders/Blue Mountain Biodiversity Project v. Forsgren*, 309 F.3d 1181 (9th Cir. 2002), and *Nw. Env'tl. Def. Cir. v. Brown*, 640 F.3d 1063 (9th Cir. 2011), *rev'd on other grounds*, 133 S.Ct. 1326 (2013).

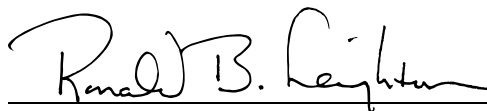
3. An immediate appeal from the Order may materially advance the termination of this litigation.

Based on these findings:

IT IS HEREBY ORDERED that Coast Seafoods Company's motion to certify the Order for interlocutory appeal is GRANTED.

IT IS FURTHER ORDERED that, in the event the Ninth Circuit accepts certification, this proceeding is stayed during the pendency of the interlocutory appeal.

DATED this 8<sup>th</sup> day of August, 2016.



Ronald B. Leighton  
United States District Judge

Presented by:

By: s/ Joseph Vance, P.C.  
Joseph Vance, P.C., WSB No. 25531  
Hong N. Huynh, WSB No. 45044  
Miller Nash Graham & Dunn LLP  
111 S.W. Fifth Avenue, Suite 3400  
Portland, Oregon 97204  
Telephone: (503) 224-5858  
Fax: (503) 224-0155  
E-mail: hong.huynh@millernash.com  
E-mail: joseph.vance@millernash.com  
Attorneys for Defendant Coast Seafoods Company